

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 254

# HOUSE BILL 2010

AN ACT

AMENDING SECTIONS 12-2294, 12-2295, 13-3412.01, 15-1722, 20-1742, 31-241, 32-1362, 32-1401, 32-1402, 32-1403.01, 32-1406, 32-1435, 32-1451, 32-1491, 32-1601, 32-1904, 32-1921, 32-1970, 32-2502, 32-2505, 32-2506, 32-2526, 32-2527, 32-2842, 32-2933, 36-117, 36-441, 36-445.01, 41-1092 AND 41-3002.21, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA MEDICAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)



Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 12-2294, Arizona Revised Statutes, is amended to read:

12-2294. Release of medical records to third parties

A. A health care provider shall disclose medical records or the information contained in medical records without the patient's written authorization as otherwise required by law.

B. A health care provider may disclose medical records or the information contained in medical records without the patient's written authorization as follows or as otherwise authorized by law:

1. To attending and consulting health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.

2. To health care providers who have previously provided treatment to the patient, to the extent that the records pertain to the provided treatment.

3. To ambulance attendants as defined in section 36-2201 for the purpose of providing care to or transferring the patient whose records are requested.

4. To a private agency that accredits health care providers and to the ~~allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD.

5. To health care providers for the purpose of conducting utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

6. To a person or entity that provides billing, claims management, medical data processing, utilization review or other administrative services to the patient's health care providers.

7. To the legal representative of a health care provider in possession of the medical record for the purpose of securing legal advice.

8. To the personal representative or administrator of the estate of a deceased patient. If a personal representative or administrator has not been appointed, a health care provider may release medical records to the following persons and in the following order of priority, unless the deceased patient during the deceased patient's lifetime or a person in a higher order of priority has notified the health care provider in writing that he opposes the release of the medical records:

(a) The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death.

(b) The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during his THE DECEASED PATIENT'S lifetime.

(c) An adult child of the deceased patient.

(d) A parent of the deceased patient.

1 (e) An adult brother or sister of the deceased patient.

2 (f) A guardian or conservator of the deceased patient at the time of  
3 the patient's death.

4 9. To the patient's third party payor if the payor has separately  
5 obtained the patient's written authorization to disclose medical record  
6 information to the payor and furnishes a copy of this authorization to the  
7 health care provider.

8 C. In addition to the persons listed in subsection B, paragraph 8 of  
9 this section, a health care provider may release medical records or the  
10 information contained in medical records to the patient's health care  
11 decision maker at the time of the patient's death.

12 D. A health care provider shall disclose medical records to persons  
13 listed in subsection B, paragraphs 2, 4, 5 and 8 of this section only on  
14 written request. The person requesting the records shall sign the request  
15 and shall demonstrate the authority to have access to the records.

16 E. Medical records that are not in written form shall only be released  
17 if the written request specifically identifies the type of record desired.

18 F. Medical records that are disclosed pursuant to this section remain  
19 privileged. A person who receives medical records pursuant to this section  
20 shall not disclose those records without the written authorization of the  
21 patient or the patient's health care decision maker, unless otherwise  
22 provided by law.

23 Sec. 2. Section 12-2295, Arizona Revised Statutes, is amended to read:

24 12-2295. Charges

25 A. Except as otherwise provided by law, a health care provider or  
26 contractor may charge a person who requests copies of medical records a  
27 reasonable fee for the production of the records. Except as necessary for  
28 continuity of care, a health care provider or contractor may require the  
29 payment of any fees in advance.

30 B. A health care provider or contractor shall not charge for the  
31 pertinent information contained in medical records provided to:

32 1. Another health care provider for the purpose of providing  
33 continuing care to the patient to whom the medical record pertains.

34 2. The patient to whom the medical record pertains for the  
35 demonstrated purpose of obtaining health care.

36 3. The health care decision maker or surrogate of the patient to whom  
37 the medical record pertains for the demonstrated purpose of obtaining health  
38 care.

39 4. ~~The allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD or  
40 an officer of the department of health services or the local health  
41 department requesting records pursuant to section 36-662.

1       Sec. 3. Section 13-3412.01, Arizona Revised Statutes, is amended to  
2 read:

3       13-3412.01. Prescribing controlled substances included in  
4                   schedule I for seriously ill and terminally ill  
5                   patients

6       A. Notwithstanding any law to the contrary, any medical doctor  
7 licensed to practice in this state may prescribe a controlled substance  
8 included in schedule I as prescribed by section 36-2512 to treat a disease,  
9 or to relieve the pain and suffering of a seriously ill patient or terminally  
10 ill patient, subject to the provisions of this section. In prescribing such  
11 a controlled substance, the medical doctor shall comply with professional  
12 medical standards.

13       B. Notwithstanding any law to the contrary, a medical doctor shall  
14 document that scientific research exists which THAT supports the use of a  
15 controlled substance listed in schedule I as prescribed by section 36-2512  
16 to treat a disease, or to relieve the pain and suffering of a seriously ill  
17 patient or a terminally ill patient before prescribing the controlled  
18 substance. A medical doctor prescribing a controlled substance included in  
19 schedule I as prescribed by section 36-2512 to treat a disease, or to relieve  
20 the pain and suffering of a seriously ill patient or terminally ill patient,  
21 shall obtain the written opinion of a second medical doctor that prescribing  
22 the controlled substance is appropriate to treat a disease or to relieve the  
23 pain and suffering of a seriously ill patient or terminally ill patient. The  
24 written opinion of the second medical doctor shall be kept in the patient's  
25 official medical file. Before prescribing the controlled substance included  
26 in schedule I as prescribed by section 36-2512 the medical doctor shall  
27 receive in writing the consent of the patient.

28       C. Any failure to comply with the provisions of this section may be  
29 the subject of investigation and appropriate disciplining action by the  
30 ~~allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD.

31       Sec. 4. Section 15-1722, Arizona Revised Statutes, is amended to read:

32       15-1722. Board of medical student loans; members; terms;  
33                   officers; compensation

34       A. The board of medical student loans is established and consists of  
35 the following eight members:

36       1. Two members who are appointed by the chairman of the ~~allopathic~~  
37 ~~board of medical examiners~~ ARIZONA MEDICAL BOARD.

38       2. Three who are members appointed by the governor and who are  
39 knowledgeable in the problems of health care in Arizona.

40       3. One member who is appointed from the staff of the college of  
41 medicine of the university of Arizona and who is appointed by the president  
42 of the university of Arizona.

43       4. One member who is licensed pursuant to title 32, chapter 17 and who  
44 is appointed by the board of osteopathic examiners in medicine and surgery.

1           5. The director of the department of health services or the director's  
2 designee who is the ex officio nonvoting eighth member of the board.

3           B. The terms of members are four years beginning on the third Monday  
4 in January.

5           C. The board shall select a chairman and vice-chairman and such other  
6 officers as it deems necessary.

7           D. Board members shall be compensated as determined pursuant to  
8 section 38-611.

9           Sec. 5. Section 20-1742, Arizona Revised Statutes, is amended to read:

10          20-1742. Insurers to report malpractice claims and actions;  
11 definition

12          A. Each health care insurer providing professional liability insurance  
13 to a health professional as defined in section 32-3201 shall report to the  
14 appropriate health profession regulatory board, except the ~~allopathic board~~  
15 ~~of medicine~~ ARIZONA MEDICAL BOARD, within thirty days of its receipt, any  
16 written or oral claim or action for damages for personal injury claimed to  
17 have been caused by:

18           1. An error, omission or negligence in the performance of an insured's  
19 professional services.

20           2. The performance of professional services without adequate informed  
21 consent.

22           3. An alleged breach of contract for professional services.

23          B. The reports required by subsection A of this section shall be  
24 confidential, nondiscoverable and nonadmissible as evidence, shall be filed  
25 on such forms as the health profession regulatory board, except the  
26 ~~allopathic board of medicine~~ ARIZONA MEDICAL BOARD, may require and shall  
27 contain:

28           1. The name and address of the health professional involved in the  
29 claim.

30           2. The name and address of the person on whose behalf the claim is  
31 being filed.

32           3. The date of the occurrence which THAT created the claim.

33           4. The date of the claim if a complaint is not simultaneously filed.

34           5. The date the complaint is filed, if applicable.

35           6. A summary of the occurrence on which the claim is based as stated  
36 by the claimant.

37           7. Such other reasonable information related to the claim as the  
38 director may require.

39          C. Every health care insurer required to report to the health  
40 profession regulatory board pursuant to this section is required to advise  
41 the health profession regulatory board of any settlements or judgments  
42 entered against a health professional as defined in section 32-3201 within  
43 thirty days after the settlement was agreed to or the judgment was entered  
44 in superior court.

1 D. There shall be no liability on the part of and no cause of action  
2 shall arise against any health care insurer or its agents or employees  
3 reporting as required by this section.

4 E. The health profession regulatory board shall notify each health  
5 care insurer ~~which~~ THAT is required to report pursuant to subsection A of  
6 this section of its duty to report.

7 F. Nothing in this section limits the director of insurance from  
8 obtaining any of the information required to be reported under this section.

9 G. For the purposes of this section "health profession regulatory  
10 board" means an agency, board or commission that licenses, certifies or  
11 registers a health professional as defined by section 32-3201.

12 Sec. 6. Section 31-241, Arizona Revised Statutes, is amended to read:

13 31-241. Inmate complaints to boards; procedure

14 A. An inmate shall exhaust all internal department grievance  
15 procedures before filing a complaint with any of the following boards:

16 1. The state dental board established by section 32-1203.

17 2. The joint board on the regulation of physician assistants  
18 established by section 32-2502.

19 3. ~~The allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD  
20 established by section 32-1402.

21 4. The state board of nursing established by section 32-1602.

22 5. The board of occupational therapy examiners established by section  
23 32-3402.

24 6. The Arizona board of osteopathic examiners in medicine and surgery  
25 established by section 32-1801.

26 7. The Arizona state board of pharmacy established by section 32-1902.

27 8. The state board of psychologist examiners established by section  
28 32-2062.

29 9. The medical radiologic technology board of examiners established  
30 by section 32-2802.

31 B. If an inmate files a complaint with a board pursuant to subsection  
32 A of this section, the inmate shall attach a copy of the final department  
33 grievance response to the complaint.

34 Sec. 7. Section 32-1362, Arizona Revised Statutes, is amended to read:

35 32-1362. Enucleation of eyes by licensed embalmers

36 An embalmer who is licensed in this state may enucleate the eyes of a  
37 dead human body for the purposes specified in and pursuant to title 36,  
38 chapter 7, article 3 if the embalmer has completed a course in eye  
39 enucleation approved by the Arizona ~~allopathic board of medical examiners~~  
40 MEDICAL BOARD.

41 Sec. 8. Section 32-1401, Arizona Revised Statutes, is amended to read:

42 32-1401. Definitions

43 In this chapter, unless the context otherwise requires:

44 1. "Active license" means a valid and existing license to practice  
45 medicine.

1           2. "Adequate records" means legible medical records containing, at a  
2 minimum, sufficient information to identify the patient, support the  
3 diagnosis, justify the treatment, accurately document the results, indicate  
4 advice and cautionary warnings provided to the patient and provide sufficient  
5 information for another practitioner to assume continuity of the patient's  
6 care at any point in the course of treatment.

7           3. "Advisory letter" means a nondisciplinary letter to notify a  
8 licensee that while there is insufficient evidence to support disciplinary  
9 action the board believes that continuation of the activities that led to the  
10 investigation may result in further board action against the licensee.

11           4. "Approved hospital internship, residency or clinical fellowship  
12 program" means a program at a hospital that at the time the training occurred  
13 was legally incorporated and that had a program that was approved for  
14 internship, fellowship or residency training by the accreditation council for  
15 graduate medical education, the association of American medical colleges, the  
16 royal college of physicians and surgeons of Canada or any similar body in the  
17 United States or Canada approved by the board whose function is that of  
18 approving hospitals for internship, fellowship or residency training.

19           5. "Approved school of medicine" means any school or college offering  
20 a course of study that, on successful completion, results in the degree of  
21 doctor of medicine and whose course of study has been approved or accredited  
22 by an educational or professional association, recognized by the board,  
23 including the association of American medical colleges, the association of  
24 Canadian medical colleges or the American medical association.

25           6. "Board" means the ~~allopathic board of medical examiners of the~~  
26 ~~state of Arizona~~ ARIZONA MEDICAL BOARD.

27           7. "Completed application" means that the applicant has supplied all  
28 required fees, information and correspondence requested by the board on forms  
29 and in a manner acceptable to the board.

30           8. "Direct supervision" means that a physician, physician assistant  
31 licensed pursuant to chapter 25 of this title or nurse practitioner certified  
32 pursuant to chapter 15 of this title is within the same room or office suite  
33 as the medical assistant in order to be available for consultation regarding  
34 those tasks the medical assistant performs pursuant to section 32-1456.

35           9. "Dispense" means the delivery by a doctor of medicine of a  
36 prescription drug or device to a patient, except for samples packaged for  
37 individual use by licensed manufacturers or repackagers of drugs, and  
38 includes the prescribing, administering, packaging, labeling and security  
39 necessary to prepare and safeguard the drug or device for delivery.

40           10. "Doctor of medicine" means a natural person holding a license,  
41 registration or permit to practice medicine pursuant to this chapter.

42           11. "Full-time faculty member" means a physician employed full time as  
43 a faculty member while holding the academic position of assistant professor  
44 or a higher position at an approved school of medicine.

1       12. "Health care institution" means any facility as defined in section  
2 36-401, any person authorized to transact disability insurance, as defined  
3 in title 20, chapter 6, article 4 or 5, any person who is issued a  
4 certificate of authority pursuant to title 20, chapter 4, article 9 or any  
5 other partnership, association or corporation that provides health care to  
6 consumers.

7       13. "Immediate family" means the spouse, natural or adopted children,  
8 father, mother, brothers and sisters of the doctor and the natural or adopted  
9 children, father, mother, brothers and sisters of the doctor's spouse.

10       14. "Joint board" means the joint board on the regulation of physician  
11 assistants established pursuant to chapter 25 of this title.

12       15. "Letter of reprimand" means a disciplinary letter that is issued  
13 by the board and that informs the physician that the physician's conduct  
14 violates state or federal law and may require the board to monitor the  
15 physician.

16       16. "Medical assistant" means an unlicensed person who meets the  
17 requirements of section 32-1456, has completed an education program approved  
18 by the board, assists in a medical practice under the supervision of a doctor  
19 of medicine, physician assistant or nurse practitioner and performs delegated  
20 procedures commensurate with the assistant's education and training but does  
21 not diagnose, interpret, design or modify established treatment programs or  
22 perform any functions that would violate any statute applicable to the  
23 practice of medicine.

24       17. "Medical peer review" means:

25       (a) The participation by a doctor of medicine in the review and  
26 evaluation of the medical management of a patient and the use of resources  
27 for patient care.

28       (b) Activities relating to a health care institution's decision to  
29 grant or continue privileges to practice at that institution.

30       18. "Medically incompetent" means a person who the board determines is  
31 incompetent based on a variety of factors including:

32       (a) A lack of sufficient medical knowledge or skills, or both, to a  
33 degree likely to endanger the health of patients.

34       (b) When considered with other indications of medical incompetence,  
35 failing to obtain a scaled score of at least seventy-five per cent on the  
36 written special purpose licensing examination administered by the board.

37       19. "Medicine" means allopathic medicine as practiced by the recipient  
38 of a degree of doctor of medicine.

39       20. "Physician" means a doctor of medicine licensed pursuant to this  
40 chapter.

41       21. "Practice of medicine" means the diagnosis, the treatment or the  
42 correction of or the attempt or the holding of oneself out as being able to  
43 diagnose, treat or correct any and all human diseases, injuries, ailments,  
44 infirmities, deformities, physical or mental, real or imaginary, by any  
45 means, methods, devices or instrumentalities, except as the same may be among

1 the acts or persons not affected by this chapter. The practice of medicine  
2 includes the practice of medicine alone or the practice of surgery alone, or  
3 both.

4 22. "Special purpose licensing examination" means an examination  
5 developed by the national board of medical examiners on behalf of the  
6 federation of state medical boards for use by state licensing boards to test  
7 the basic medical competence of physicians who are applying for licensure and  
8 who have been in practice for a considerable period of time in another  
9 jurisdiction and to determine the competence of a physician under  
10 investigation by a state licensing board.

11 23. "Teaching hospital's accredited graduate medical education program"  
12 means that the hospital is incorporated and has an internship, fellowship or  
13 residency training program that is accredited by the accreditation council  
14 for graduate medical education, the American medical association, the  
15 association of American medical colleges, the royal college of physicians and  
16 surgeons of Canada or a similar body in the United States or Canada approved  
17 by the board whose function is that of approving hospitals for internship,  
18 fellowship or residency training.

19 24. "Teaching license" means a valid license to practice medicine as  
20 a full-time faculty member of an approved school of medicine or a teaching  
21 hospital's accredited graduate medical education program.

22 25. "Unprofessional conduct" includes the following, whether occurring  
23 in this state or elsewhere:

24 (a) Violating any federal or state laws or rules and regulations  
25 applicable to the practice of medicine.

26 (b) Intentionally disclosing a professional secret or intentionally  
27 disclosing a privileged communication except as either act may otherwise be  
28 required by law.

29 (c) False, fraudulent, deceptive or misleading advertising by a doctor  
30 of medicine or the doctor's staff, employer or representative.

31 (d) Committing a felony, whether or not involving moral turpitude, or  
32 a misdemeanor involving moral turpitude. In either case, conviction by any  
33 court of competent jurisdiction or a plea of no contest is conclusive  
34 evidence of the commission.

35 (e) Failing or refusing to maintain adequate records on a patient.

36 (f) Habitual intemperance in the use of alcohol or habitual substance  
37 abuse.

38 (g) Using controlled substances except if prescribed by another  
39 physician for use during a prescribed course of treatment.

40 (h) Prescribing or dispensing controlled substances to members of the  
41 physician's immediate family.

42 (i) Prescribing, dispensing or administering schedule II controlled  
43 substances as defined in section 36-2513 including amphetamines and similar  
44 schedule II sympathomimetic drugs in the treatment of exogenous obesity for

1 a period in excess of thirty days in any one year, or the non-therapeutic use  
2 of injectable amphetamines.

3 (j) Prescribing, dispensing or administering any controlled substance  
4 or prescription-only drug for other than accepted therapeutic purposes.

5 (k) Signing a blank, undated or predated prescription form.

6 (l) Conduct that the board determines is gross malpractice, repeated  
7 malpractice or any malpractice resulting in the death of a patient.

8 (m) Representing that a manifestly incurable disease or infirmity can  
9 be permanently cured, or that any disease, ailment or infirmity can be cured  
10 by a secret method, procedure, treatment, medicine or device, if such is not  
11 the fact.

12 (n) Refusing to divulge to the board on demand the means, method,  
13 procedure, modality of treatment or medicine used in the treatment of a  
14 disease, injury, ailment or infirmity.

15 (o) Action that is taken against a doctor of medicine by another  
16 licensing or regulatory jurisdiction due to that doctor's mental or physical  
17 inability to engage safely in the practice of medicine, the doctor's medical  
18 incompetence or for unprofessional conduct as defined by that jurisdiction  
19 and that corresponds directly or indirectly to an act of unprofessional  
20 conduct prescribed by this paragraph. The action taken may include refusing,  
21 denying, revoking or suspending a license by that jurisdiction or a  
22 surrendering of a license to that jurisdiction, otherwise limiting,  
23 restricting or monitoring a licensee by that jurisdiction or placing a  
24 licensee on probation by that jurisdiction.

25 (p) Sanctions imposed by an agency of the federal government,  
26 including restricting, suspending, limiting or removing a person from the  
27 practice of medicine or restricting that person's ability to obtain financial  
28 remuneration.

29 (q) Any conduct or practice that is or might be harmful or dangerous  
30 to the health of the patient or the public.

31 (r) Violating a formal order, probation, consent agreement or  
32 stipulation issued or entered into by the board or its executive director  
33 under the provisions of this chapter.

34 (s) Violating or attempting to violate, directly or indirectly, or  
35 assisting in or abetting the violation of or conspiring to violate any  
36 provision of this chapter.

37 (t) Knowingly making any false or fraudulent statement, written or  
38 oral, in connection with the practice of medicine or if applying for  
39 privileges or renewing an application for privileges at a health care  
40 institution.

41 (u) Charging a fee for services not rendered or dividing a  
42 professional fee for patient referrals among health care providers or health  
43 care institutions or between these providers and institutions or a  
44 contractual arrangement that has the same effect.

45 (v) Obtaining a fee by fraud, deceit or misrepresentation.

1 (w) Charging or collecting a clearly excessive fee. In determining  
2 if a fee is clearly excessive, the board shall consider the fee or range of  
3 fees customarily charged in the state for similar services in light of  
4 modifying factors such as the time required, the complexity of the service  
5 and the skill requisite to perform the service properly. This subdivision  
6 does not apply if there is a clear written contract for a fixed fee between  
7 the physician and the patient that has been entered into before the provision  
8 of service.

9 (x) Fetal experiments conducted in violation of section 36-2302.

10 (y) The use of experimental forms of diagnosis and treatment without  
11 adequate informed patient consent, and without conforming to generally  
12 accepted experimental criteria, including protocols, detailed records,  
13 periodic analysis of results and periodic review by a medical peer review  
14 committee as approved by the federal food and drug administration or its  
15 successor agency.

16 (z) Engaging in sexual conduct with a current patient or with a former  
17 patient within six months after the last medical consultation unless the  
18 patient was the licensee's spouse at the time of the contact or, immediately  
19 preceding the physician-patient relationship, was in a dating or engagement  
20 relationship with the licensee. For the purposes of this subdivision,  
21 "sexual conduct" includes:

22 (i) Engaging in or soliciting sexual relationships, whether consensual  
23 or nonconsensual.

24 (ii) Making sexual advances, requesting sexual favors or engaging in  
25 any other verbal conduct or physical contact of a sexual nature with a  
26 patient.

27 (iii) Intentionally viewing a completely or partially disrobed patient  
28 in the course of treatment if the viewing is not related to patient diagnosis  
29 or treatment under current practice standards.

30 (aa) Procuring or attempting to procure a license to practice medicine  
31 or a license renewal by fraud, by misrepresentation or by knowingly taking  
32 advantage of the mistake of another person or an agency.

33 (bb) Representing or holding oneself out as being a medical specialist  
34 when such is not the fact.

35 (cc) Maintaining a professional connection with or lending one's name  
36 to enhance or continue the activities of an illegal practitioner of medicine.

37 (dd) Failing to furnish information in a timely manner to the board  
38 or its THE BOARD'S investigators or representatives if legally requested by  
39 the board.

40 (ee) Failing to allow properly authorized board personnel on demand  
41 to examine and have access to documents, reports and records maintained by  
42 the physician that relate to his THE PHYSICIAN'S medical practice or  
43 medically related activities.

44 (ff) Knowingly failing to disclose to a patient on a form that is  
45 prescribed by the board and that is dated and signed by the patient or

1 guardian acknowledging that the patient or guardian has read and understands  
2 that the doctor has a direct financial interest in a separate diagnostic or  
3 treatment agency or in non-routine goods or services that the patient is  
4 being prescribed and if the prescribed treatment, goods or services are  
5 available on a competitive basis. This subdivision does not apply to a  
6 referral by one doctor of medicine to another doctor of medicine within a  
7 group of doctors of medicine practicing together.

8 (gg) Using chelation therapy in the treatment of arteriosclerosis or  
9 as any other form of therapy, with the exception of treatment of heavy metal  
10 poisoning, without:

11 (i) Adequate informed patient consent.

12 (ii) Conforming to generally accepted experimental criteria, including  
13 protocols, detailed records, periodic analysis of results and periodic review  
14 by a medical peer review committee.

15 (iii) Approval by the federal food and drug administration or its  
16 successor agency.

17 (hh) Prescribing, dispensing or administering anabolic-androgenic  
18 steroids to a person for other than therapeutic purposes.

19 (ii) Lack of or inappropriate direction, collaboration or direct  
20 supervision of a medical assistant or a licensed, certified or registered  
21 health care provider employed by, supervised by or assigned to the physician.

22 (jj) Knowingly making a false or misleading statement to the board or  
23 on a form required by the board or in a written correspondence, including  
24 attachments, with the board.

25 (kk) Failing to dispense drugs and devices in compliance with article  
26 6 of this chapter.

27 (ll) Conduct that the board determines is gross negligence, repeated  
28 negligence or negligence resulting in harm to or the death of a patient.

29 (mm) The representation by a doctor of medicine or the doctor's staff,  
30 employer or representative that the doctor is boarded or board certified if  
31 this is not true or the standing is not current or without supplying the full  
32 name of the specific agency, organization or entity granting this standing.

33 (nn) Refusing to submit to a body fluid examination as required by the  
34 board pursuant to section 32-1452 or pursuant to a board investigation into  
35 a doctor of medicine's alleged substance abuse.

36 (oo) Failing to report in writing to the board or the joint board any  
37 evidence that a doctor of medicine or a physician assistant is or may be  
38 medically incompetent, guilty of unprofessional conduct or mentally or  
39 physically unable to safely practice medicine or as a physician assistant.

40 (pp) The failure of a physician who is the chief executive officer,  
41 the medical director or the medical chief of staff of a health care  
42 institution to report in writing to the board that the hospital privileges  
43 of a doctor of medicine have been denied, revoked, suspended, supervised or  
44 limited because of actions by the doctor that appear to show that the doctor

1 is or may be medically incompetent, is or may be guilty of unprofessional  
2 conduct or is or may be unable to engage safely in the practice of medicine.

3 (qq) Representing oneself to be a current member of the board, its  
4 staff or a board medical consultant if this is not true.

5 (rr) Failing to make patient medical records in the physician's  
6 possession promptly available to a physician assistant, a nurse practitioner,  
7 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
8 naturopathic physician, osteopathic physician or homeopathic physician  
9 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper  
10 authorization to do so from the patient, a minor patient's parent, the  
11 patient's legal guardian or the patient's authorized representative or  
12 failing to comply with title 12, chapter 13, article 7.1.

13 (ss) Prescribing, dispensing or furnishing a prescription medication  
14 or a prescription-only device as defined in section 32-1901 to a person  
15 unless the licensee first conducts a physical examination of that person or  
16 has previously established a doctor-patient relationship. This subdivision  
17 does not apply to:

18 (i) A physician who provides temporary patient supervision on behalf  
19 of the patient's regular treating licensed health care professional.

20 (ii) Emergency medical situations as defined in section 41-1831.

21 (iii) Prescriptions written to prepare a patient for a medical  
22 examination.

23 Sec. 9. Section 32-1402, Arizona Revised Statutes, is amended to read:

24 32-1402. Board; appointment; qualifications; term; removal;  
25 compensation; immunity

26 A. The ~~allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD is  
27 established. The board consists of twelve members, four of whom shall  
28 represent the public and eight of whom shall be actively practicing medicine.  
29 One of the four public members shall be a licensed practical nurse or a  
30 professional nurse, as defined in chapter 15 of this title, with at least  
31 five years' experience. The eight physicians must be from at least three  
32 different counties of the state. Not more than five of the board members may  
33 be from any one county. Members of the board are appointed by the governor.  
34 All appointments shall be made promptly, and, in the case of the vacancy of  
35 a doctor of medicine, the governor shall not make this appointment later than  
36 ninety days after the governor receives a list of nominees as provided in  
37 this section. The governor shall make all appointments pursuant to section  
38 38-211.

39 B. Each doctor of medicine who is appointed to the board shall have  
40 been a resident of this state and actively engaged in the practice of  
41 medicine as a licensed physician for at least the five years prior to BEFORE  
42 appointment.

43 C. The term of office of a member of the board is five years,  
44 commencing on July 1 and terminating on July 1 of the fifth year. Each  
45 member is eligible for reappointment for not more than one additional term.

1 However, the term of office for a member of the board appointed to fill a  
2 vacancy occasioned other than by expiration of a full term is for the  
3 unexpired portion of that term and the governor may reappoint that member to  
4 not more than two additional full terms. Each member of the board shall  
5 continue to hold office until the appointment and qualification of that  
6 member's successor, subject to the following exceptions:

7 1. A member of the board, after notice and a hearing before the  
8 governor, may be removed on a finding by the governor of continued neglect  
9 of duty, incompetence, or unprofessional or dishonorable conduct, in which  
10 event that member's term shall end when the governor makes this finding.

11 2. The term of any member automatically ends:

12 (a) On death.

13 (b) On written resignation submitted to the board chairman or to the  
14 governor.

15 (c) On absence from the state for a period of more than six months.

16 (d) For failure to attend three consecutive meetings of the board.

17 (e) Five years after retirement from the active practice of medicine.

18 D. The board shall annually elect, from among its membership, a  
19 chairman, a vice-chairman and a secretary, who shall hold their respective  
20 offices at the pleasure of the board.

21 E. Board members are eligible to receive compensation in the amount  
22 of two hundred fifty dollars per day for each day of actual service in the  
23 business of the board and all expenses necessarily and properly incurred in  
24 attending meetings of the board.

25 F. Members of the board are personally immune from suit with respect  
26 to all acts done and actions taken in good faith and in furtherance of the  
27 purposes of this chapter.

28 G. The board shall submit a written report to the governor no later  
29 than August 31 of each year on the board's licensing and disciplinary  
30 activities for the previous fiscal year. Public members appointed to the  
31 board may submit a separate written report to the governor by August 31 of  
32 each year setting forth their comments relative to the board's licensing and  
33 disciplinary activities for the previous fiscal year.

34 Sec. 10. Section 32-1403.01, Arizona Revised Statutes, is amended to  
35 read:

36 32-1403.01. Licensees; profiles; required information; review;  
37 malpractice information; civil penalty

38 A. Beginning on January 1, 2001, the ~~allopathic~~ board of ~~medical~~  
39 examiners shall make available to the public a profile of each licensee. The  
40 board shall make this information available through an internet web site and,  
41 if requested, in writing. The profile shall contain the following  
42 information:

43 1. A description of any criminal conviction within the last five  
44 years. For purposes of this paragraph, a licensee is deemed to be convicted

1 of a crime if the licensee pled guilty or was found guilty by a court of  
2 competent jurisdiction.

3 2. A description of any charges within the last five years to which  
4 the licensee pled no contest.

5 3. The number of pending complaints and final board disciplinary and  
6 nondisciplinary actions, including dismissals, within the last five years.  
7 Information concerning pending complaints shall contain the following  
8 statement:

9 Pending complaints represent unproven allegations. On  
10 investigation, many complaints are found to be without merit and  
11 are dismissed.

12 4. All medical malpractice court judgments and all medical malpractice  
13 awards or settlements in which a payment is made to a complaining party  
14 within the last five years. Information concerning malpractice actions shall  
15 also contain the following statement:

16 The settlement of a medical malpractice action may occur for a  
17 variety of reasons that do not necessarily reflect negatively on  
18 the professional competence or conduct of the doctor. A payment  
19 in settlement of a medical malpractice action does not create a  
20 presumption that medical malpractice occurred.

21 5. The name and location of the licensee's medical school and the date  
22 of graduation.

23 6. The name and location of the institution from which the licensee  
24 received graduate medical education and the date that education was  
25 completed.

26 7. The licensee's primary practice location.

27 B. Each licensee shall submit the information required pursuant to  
28 subsection A each year as directed by the board. An applicant for licensure  
29 shall submit this information at the time of application. The applicant and  
30 licensee shall submit the information on a form prescribed by the board. A  
31 licensee shall submit immediately any changes in information required  
32 pursuant to subsection A, paragraphs 1, 2 and 4. The board shall update  
33 immediately its internet web site to reflect changes in information relating  
34 to subsection A, paragraphs 1 through 4. The board shall update the internet  
35 web site information at least annually.

36 C. The board shall provide each licensee with a copy of the licensee's  
37 profile and give the licensee reasonable time to correct the profile before  
38 it is available to the public.

39 D. It is an act of unprofessional conduct for a licensee to provide  
40 erroneous information pursuant to this section. In addition to other  
41 disciplinary action, the board may impose a civil penalty of not more than  
42 one thousand dollars for each erroneous statement.

43 Sec. 11. Section 32-1406, Arizona Revised Statutes, is amended to  
44 read:

45 32-1406. Arizona medical board fund

1       A. ~~A THE ARIZONA MEDICAL board of medical examiners' fund~~ is  
2 established. Pursuant to sections 35-146 and 35-147, the board shall deposit  
3 ten per cent of all monies collected under the provisions of this chapter in  
4 the state general fund and deposit the remaining ninety per cent in the  
5 ARIZONA MEDICAL board of medical examiners' fund.

6       B. Monies deposited in the board of medical examiners' fund are  
7 subject to section 35-143.01.

8       Sec. 12. Section 32-1435, Arizona Revised Statutes, is amended to  
9 read:

10       32-1435. Change of address; costs; penalties

11       A. ~~The board shall annually compile and publish a directory~~  
12 ~~containing:~~

13       1. ~~The names and addresses of the officers and members of the board.~~

14       2. ~~The names, addresses and fields of practice of all licensees.~~

15       3. ~~The current certified board rules.~~

16       4. ~~A copy of this chapter.~~

17       5. ~~Additional information the board deems of interest and importance~~  
18 ~~to doctors of medicine.~~

19       B. A. Each active licensee shall promptly and in writing inform the  
20 board of the licensee's current residence address, office address and  
21 telephone number and of each change in residence address, office address or  
22 telephone number that may later occur.

23       C. ~~A copy of the directory shall be given free of charge to each~~  
24 ~~person licensed under this chapter. The board shall make additional copies~~  
25 ~~available at cost.~~

26       D. B. The board may assess the costs incurred by the board in  
27 locating a licensee and in addition a penalty of not to exceed one hundred  
28 dollars against a licensee who fails to comply with subsection B- A within  
29 thirty days from the date of change. Notwithstanding any law to the  
30 contrary, monies collected pursuant to this subsection shall be deposited in  
31 the ARIZONA MEDICAL board of medical examiners fund.

32       Sec. 13. Section 32-1451, Arizona Revised Statutes, is amended to  
33 read:

34       32-1451. Grounds for disciplinary action; duty to report;  
35 immunity; proceedings; board action; notice  
36 requirements

37       A. The board on its own motion may investigate any evidence that  
38 appears to show that a doctor of medicine is or may be medically incompetent,  
39 is or may be guilty of unprofessional conduct or is or may be mentally or  
40 physically unable safely to engage in the practice of medicine. On written  
41 request of a complainant the board shall review a complaint that has been  
42 administratively closed by the executive director and take any action it  
43 deems appropriate. Any person may, and a doctor of medicine, the Arizona  
44 medical association, a component county society of that association and any  
45 health care institution shall, report to the board any information that

1 appears to show that a doctor of medicine is or may be medically incompetent,  
2 is or may be guilty of unprofessional conduct or is or may be mentally or  
3 physically unable safely to engage in the practice of medicine. The board  
4 or the executive director shall notify the doctor as to the content of the  
5 complaint as soon as reasonable. Any person or entity that reports or  
6 provides information to the board in good faith is not subject to an action  
7 for civil damages. If requested, the board shall not disclose the name of  
8 a person who supplies information regarding a licensee's drug or alcohol  
9 impairment. It is an act of unprofessional conduct for any doctor of  
10 medicine to fail to report as required by this section. The board shall  
11 report any health care institution that fails to report as required by this  
12 section to that institution's licensing agency.

13 B. The chief executive officer, the medical director or the medical  
14 chief of staff of a health care institution shall inform the board if the  
15 privileges of a doctor to practice in that health care institution are  
16 denied, revoked, suspended or limited because of actions by the doctor that  
17 appear to show that the doctor is or may be medically incompetent, is or may  
18 be guilty of unprofessional conduct or is or may be mentally or physically  
19 unable to safely engage in the practice of medicine, along with a general  
20 statement of the reasons, including patient chart numbers, that led the  
21 health care institution to take the action. The chief executive officer, the  
22 medical director or the medical chief of staff of a health care institution  
23 shall inform the board if a doctor under investigation resigns or if a doctor  
24 resigns in lieu of disciplinary action by the health care institution.  
25 Notification shall include a general statement of the reasons for the  
26 resignation, including patient chart numbers. The board shall inform all  
27 appropriate health care institutions in this state as defined in section  
28 36-401 and the Arizona health care cost containment system administration of  
29 a resignation, denial, revocation, suspension or limitation, and the general  
30 reason for that action, without divulging the name of the reporting health  
31 care institution. A person who reports information in good faith pursuant  
32 to this subsection is not subject to civil liability.

33 C. The board or, if delegated by the board, the executive director  
34 shall require any combination of mental, physical or oral or written medical  
35 competency examinations and conduct necessary investigations, including  
36 investigational interviews between representatives of the board and the  
37 doctor to fully inform itself with respect to any information filed with the  
38 board under subsection A of this section. These examinations may include  
39 biological fluid testing. The board or, if delegated by the board, the  
40 executive director may require the doctor, at the doctor's expense, to  
41 undergo assessment by a board approved rehabilitative, retraining or  
42 assessment program.

43 D. If the board finds, based on the information it receives under  
44 subsections A and B of this section, that the public health, safety or  
45 welfare imperatively requires emergency action, and incorporates a finding

1 to that effect in its order, the board may restrict, limit or order a summary  
2 suspension of a license pending proceedings for revocation or other action.  
3 If the board takes action pursuant to this subsection it shall also serve the  
4 licensee with a written notice that states the charges and that the licensee  
5 is entitled to a formal hearing before the board or an administrative law  
6 judge within sixty days.

7 E. If, after completing its investigation, the board finds that the  
8 information provided pursuant to subsection A of this section is not of  
9 sufficient seriousness to merit disciplinary action against the license of  
10 the doctor, the board or a board committee may take either ANY of the  
11 following actions:

12 1. Dismiss if, in the opinion of the board, the information is  
13 without merit.

14 2. File an advisory letter. The licensee may file a written response  
15 with the board within thirty days after receiving the advisory letter.

16 3. ENTER INTO AN AGREEMENT WITH THE PHYSICIAN TO LIMIT THE  
17 PHYSICIAN'S PRACTICE OR PROFESSIONAL ACTIVITIES IF THE PHYSICIAN IS MENTALLY  
18 OR PHYSICALLY UNABLE TO ENGAGE SAFELY IN ALL ASPECTS OF MEDICINE.

19 F. If the board finds that it can take rehabilitative or disciplinary  
20 action without the presence of the doctor at a formal interview it may enter  
21 into a consent agreement with the doctor to limit or restrict the doctor's  
22 practice or to rehabilitate the doctor, protect the public and ensure the  
23 doctor's ability to safely engage in the practice of medicine. The board may  
24 also require the doctor to successfully complete a board approved  
25 rehabilitative, retraining or assessment program.

26 G. ~~If requested,~~ The board shall not disclose the name of the person  
27 who provided information regarding a licensee's drug or alcohol impairment  
28 or the name of the person who files a complaint if that person requests  
29 anonymity.

30 H. If after completing its investigation the board believes that the  
31 information is or may be true, it may request a formal interview with the  
32 doctor. If the doctor refuses the invitation for A formal interview or  
33 accepts and the results indicate that grounds may exist for revocation or  
34 suspension of the doctor's license for more than twelve months, the board  
35 shall issue a formal complaint and order that a hearing be held pursuant to  
36 title 41, chapter 6, article 10. If after completing a formal interview the  
37 board finds that the protection of the public requires emergency action, it  
38 may order a summary suspension of the license pending formal revocation  
39 proceedings or other action authorized by this section.

40 I. At least ten business days before the formal interview conducted  
41 pursuant to this section, the board shall notify the doctor and, at the  
42 doctor's request, the board shall provide the doctor with the information  
43 listed in this subsection. The doctor and the doctor's attorney may not  
44 release any information obtained under this section to any other person. The

1 board shall provide the following information to the doctor or the doctor's  
2 attorney:

3 1. Any review conducted by an expert or consultant providing an  
4 evaluation of or opinion on the allegations.

5 2. Any records on the patient obtained by the board from other health  
6 care providers.

7 3. The results of any evaluations or tests of the doctor conducted at  
8 the board's direction.

9 4. Any other factual information that the board will use in making its  
10 determination.

11 J. If after completing the formal interview the board finds the  
12 information provided under subsection A of this section is not of sufficient  
13 seriousness to merit suspension for more than twelve months or revocation of  
14 the license, it may take the following actions:

15 1. Dismiss if, in the opinion of the board, the complaint is without  
16 merit.

17 2. File an advisory letter. The licensee may file a written response  
18 with the board within thirty days after the licensee receives the advisory  
19 letter.

20 3. File a letter of reprimand.

21 4. Issue a decree of censure. A decree of censure is an official  
22 action against the doctor's license and may include a requirement for  
23 restitution of fees to a patient resulting from violations of this chapter  
24 or rules adopted under this chapter.

25 5. Fix a period and terms of probation best adapted to protect the  
26 public health and safety and rehabilitate or educate the doctor concerned.  
27 Probation may include temporary suspension for not to exceed twelve months,  
28 restriction of the doctor's license to practice medicine, a requirement for  
29 restitution of fees to a patient or education or rehabilitation at the  
30 licensee's own expense. If a licensee fails to comply with the terms of  
31 probation the board shall serve the licensee with a written notice that  
32 states that the licensee is subject to a formal hearing based on the  
33 information considered by the board at the formal interview and any other  
34 acts or conduct alleged to be in violation of this chapter or rules adopted  
35 by the board pursuant to this chapter including noncompliance with the term  
36 of probation, a consent agreement or a stipulated agreement. A LICENSEE  
37 SHALL PAY THE COSTS ASSOCIATED WITH PROBATION MONITORING EACH YEAR DURING  
38 WHICH THE LICENSEE IS ON PROBATION. THE BOARD MAY ADJUST THIS AMOUNT ON AN  
39 ANNUAL BASIS. THE BOARD MAY ALLOW A LICENSEE TO MAKE PAYMENTS ON AN  
40 INSTALLMENT PLAN IF A FINANCIAL HARDSHIP OCCURS. A LICENSEE WHO DOES NOT PAY  
41 THESE COSTS WITHIN THIRTY DAYS AFTER THE DUE DATE PRESCRIBED BY THE BOARD  
42 VIOLATES THE TERMS OF PROBATION.

43 6. Enter into an agreement with the doctor to restrict or limit the  
44 doctor's practice or medical activities in order to rehabilitate, retrain or

1 assess the doctor, protect the public and ensure the physician's ability to  
2 safely engage in the practice of medicine.

3 K. If the board finds that the information provided in subsection A  
4 or I of this section warrants suspension or revocation of a license issued  
5 under this chapter, it shall initiate formal proceedings pursuant to title  
6 41, chapter 6, article 10.

7 L. In a formal interview pursuant to subsection H of this section or  
8 in a hearing pursuant to subsection K of this section, the board in addition  
9 to any other action may impose a civil penalty in the amount of not less than  
10 one thousand dollars nor more than ten thousand dollars for each violation  
11 of this chapter or a rule adopted under this chapter.

12 M. An advisory letter is a public document.

13 N. Any doctor of medicine who after a formal hearing is found by the  
14 board to be guilty of unprofessional conduct, to be mentally or physically  
15 unable safely to engage in the practice of medicine or to be medically  
16 incompetent is subject to censure, probation as provided in this section,  
17 suspension of license or revocation of license or any combination of these,  
18 including a stay of action, and for a period of time or permanently and under  
19 conditions as the board deems appropriate for the protection of the public  
20 health and safety and just in the circumstance. The board may charge the  
21 costs of formal hearings to the licensee who it finds to be in violation of  
22 this chapter.

23 O. If the board acts to modify any doctor of medicine's prescription  
24 writing privileges the board shall immediately notify the state board of  
25 pharmacy of the modification.

26 P. If the board, during the course of any investigation, determines  
27 that a criminal violation may have occurred involving the delivery of health  
28 care, it shall make the evidence of violations available to the appropriate  
29 criminal justice agency for its consideration.

30 Q. The board may divide into review committees of not less than three  
31 members including a public member. The committees shall review complaints  
32 not dismissed by the executive director and may take the following actions:

33 1. Dismiss the complaint if a committee determines that the complaint  
34 is without merit.

35 2. Issue an advisory letter. The licensee may file a written  
36 response with the board within thirty days after the licensee receives the  
37 advisory letter.

38 3. Conduct a formal interview pursuant to subsection H of this  
39 section. This includes initiating formal proceedings pursuant to  
40 subsection K of this section and imposing civil penalties pursuant to  
41 subsection L of this section.

42 4. Refer the matter for further review by the full board.

43 R. Pursuant to sections 35-146 and 35-147, the board shall deposit  
44 all monies collected from civil penalties paid pursuant to this chapter in  
45 the state general fund.

1 S. Notice of a complaint and hearing is effective by a true copy of  
2 it being sent by certified mail to the doctor's last known address of record  
3 in the board's files. Notice of the complaint and hearing is complete on the  
4 date of its deposit in the mail. The board shall begin a formal hearing  
5 within one hundred twenty days of that date.

6 T. A physician who submits an independent medical examination pursuant  
7 to an order by a court is not subject to a complaint for unprofessional  
8 conduct unless a complaint is made or referred by a court to the board. For  
9 purposes of this subsection, "independent medical examination" means a  
10 professional analysis of medical status based on a person's past and present  
11 physical and psychiatric history and conducted by a licensee or group of  
12 licensees on a contract basis for a court.

13 U. The board may accept the surrender of an active license from a  
14 person who admits in writing to any of the following:

- 15 1. Being unable to safely engage in the practice of medicine.
- 16 2. Having committed an act of unprofessional conduct.
- 17 3. Having violated this chapter or a board rule.

18 V. In determining the appropriate disciplinary action under this  
19 section, the board shall consider all previous nondisciplinary and  
20 disciplinary actions against a licensee.

21 Sec. 14. Section 32-1491, Arizona Revised Statutes, is amended to  
22 read:

23 32-1491. Dispensing of drugs and devices; civil penalty;  
24 conditions; definition

25 A. A doctor of medicine may dispense drugs and devices kept by the  
26 doctor if:

27 1. All drugs are dispensed in packages labeled with the following  
28 information:

- 29 (a) The dispensing doctor's name, address and telephone number.
- 30 (b) The date the drug is dispensed.
- 31 (c) The patient's name.

32 (d) The name and strength of the drug, directions for its use and any  
33 cautionary statements.

34 2. The dispensing doctor enters into the patient's medical record the  
35 name and strength of the drug dispensed, the date the drug is dispensed and  
36 the therapeutic reason.

37 3. The dispensing doctor keeps all drugs in a locked cabinet or room,  
38 controls access to the cabinet or room by a written procedure and maintains  
39 an ongoing inventory of its contents.

40 4. THE DOCTOR registers with the board to dispense drugs and devices  
41 and pays the registration fee prescribed by section 32-1436.

42 B. Except in an emergency situation, a doctor who dispenses drugs  
43 without being registered by the board to do so is subject to a civil penalty  
44 by the board of not less than three hundred dollars and not more than one

1 thousand dollars for each transaction and is prohibited from further  
2 dispensing for a period of time as prescribed by the board.

3 C. ~~Prior to dispensing BEFORE A PHYSICIAN DISPENSES a drug pursuant~~  
4 ~~to this section THE PHYSICIAN SHALL GIVE the patient shall be given a written~~  
5 ~~prescription on which appears the following statement in bold type: AND~~  
6 ~~INFORM THE PATIENT THAT THE PRESCRIPTION MAY BE FILLED BY THE PRESCRIBING~~  
7 ~~PHYSICIAN OR BY A PHARMACY OF THE PATIENT'S CHOICE.~~

8 ~~"This prescription may be filled by the prescribing doctor or by~~  
9 ~~a pharmacy of your choice."~~

10 D. A doctor shall dispense only to his THE DOCTOR'S own patient and  
11 only for conditions being treated by that doctor. The doctor shall provide  
12 direct supervision of a medical assistant, nurse or attendant involved in the  
13 dispensing process. In this subsection, "direct supervision" means that a  
14 doctor is present and makes the determination as to the legitimacy or the  
15 advisability of the drugs or devices to be dispensed.

16 E. This section shall be enforced by the board, which shall establish  
17 rules regarding labeling, record keeping, storage and packaging of drugs that  
18 are consistent with the requirements of chapter 18 of this title. The board  
19 may conduct periodic reviews of dispensing practices to assure compliance  
20 with this section and applicable rules.

21 F. For the purposes of this section, "dispense" means the delivery by  
22 a doctor of medicine of a prescription drug or device to a patient, except  
23 for samples packaged for individual use by licensed manufacturers or  
24 repackagers of drugs, and includes the prescribing, administering, packaging,  
25 labeling and security necessary to prepare and safeguard the drug or device  
26 for delivery.

27 Sec. 15. Section 32-1601, Arizona Revised Statutes, is amended to  
28 read:

29 32-1601. Definitions

30 In this chapter, unless the context otherwise requires:

31 1. "Absolute discharge from THE sentence" means completion of any  
32 sentence including imprisonment, probation, parole, community supervision or  
33 any form of court supervision.

34 2. "Approved nursing program" means a program for the educational  
35 preparation of professional and practical nurses for licensure in this state  
36 which THAT has met standards of the board or is accredited by a national  
37 nursing accrediting agency recognized by the board.

38 3. "Board" means the Arizona state board of nursing.

39 4. "Certified registered nurse" means a registered nurse who has been  
40 certified by a national nursing credentialing agency recognized by the board.

41 5. "Conditional license" means a license that specifies the conditions  
42 under which the licensee is allowed to practice.

43 6. "Delegation" means transferring to a competent individual the  
44 authority to perform a selected nursing task in a designated situation in

1 which the nurse making the delegation retains accountability for the  
2 delegation.

3 7. "Limited license" means a license that restricts the scope or  
4 setting of a licensee's practice.

5 8. "Nursing assistant" means a person certified pursuant to this  
6 chapter to provide or assist in the delivery of nursing or nursing-related  
7 services under the supervision and direction of a licensed nursing staff  
8 member in a location where a nursing assistant is required by law to be  
9 certified. Nursing assistant does not include a person who:

10 (a) Is a licensed health care professional.

11 (b) Volunteers to provide nursing assistant services without monetary  
12 compensation.

13 9. "Practical nurse" means a person who practices practical nursing  
14 as defined in this section.

15 10. "Practical nursing" means the performance for compensation of  
16 services that require knowledge, skills and abilities that are acquired by  
17 completing an approved practical nursing program. The practice of practical  
18 nursing consists of participating with registered nurses in the assessment,  
19 planning, implementation and evaluation of nursing care by:

20 (a) Providing for the emotional and physical comfort of patients.

21 (b) Observing, recording and reporting the condition of patients.

22 (c) Performing nursing procedures recognized by the board.

23 (d) Assisting with the rehabilitation of patients according to the  
24 patient's care plan.

25 (e) Assisting with maintenance of health.

26 11. "Professional nursing" means the performance for compensation of  
27 any act requiring substantial specialized knowledge, judgment and nursing  
28 skill based upon ON the principles of the biological, physical and social  
29 sciences in:

30 (a) The maintenance of health or prevention of illness.

31 (b) The nursing assessment, the evaluation of the patient and the  
32 administration of care to the ill, injured or infirm.

33 (c) The administration of medications and treatment as prescribed or  
34 authorized by a person licensed to prescribe such medications and treatments  
35 or as authorized pursuant to section 15-344.

36 (d) The supervision and teaching of other personnel in the performance  
37 of any of the foregoing.

38 (e) The performance of additional acts that require education and  
39 training as prescribed by the board, that are recognized by the nursing  
40 profession as proper to be performed by a professional nurse and that are  
41 authorized by the board of nursing in consultation with the ~~allopathic board~~  
42 ~~of medical examiners~~ ARIZONA MEDICAL BOARD and the board of osteopathic  
43 examiners in medicine and surgery through the rules of the board of nursing.

44 12. "Registered nurse", "graduate nurse" or "professional nurse" means  
45 a person who practices professional nursing as defined in this section.

1        13. "Registered nurse practitioner" means a professional nurse who is  
2 certified by the board in those areas authorized by the board through its  
3 rules for extended nursing practice and who has completed a nurse  
4 practitioner education program approved or recognized by the board.

5        14. "Unprofessional conduct" includes the following whether occurring  
6 in this state or elsewhere:

7            (a) Committing fraud or deceit in obtaining, attempting to obtain or  
8 renewing a license or a certificate issued pursuant to this chapter.

9            (b) Committing a felony, whether or not involving moral turpitude, or  
10 a misdemeanor involving moral turpitude. In either case, conviction by a  
11 court of competent jurisdiction or a plea of no contest is conclusive  
12 evidence of the commission.

13           (c) Aiding or abetting in a criminal abortion or attempting, agreeing  
14 or offering to procure or assist in a criminal abortion.

15           (d) Any conduct or practice that is or might be harmful or dangerous  
16 to the health of a patient or the public.

17           (e) Being mentally incompetent or physically unsafe to a degree that  
18 is or might be harmful or dangerous to the health of a patient or the public.

19           (f) Having a license, certificate, permit or registration to practice  
20 a health care profession denied, suspended, conditioned, limited or revoked  
21 in another jurisdiction and not reinstated by that jurisdiction.

22           (g) Wilfully or repeatedly violating a provision of this chapter or  
23 a rule adopted pursuant to this chapter.

24           (h) Committing an act that deceives, defrauds or harms the public.

25           (i) Failing to comply with a stipulated agreement, consent agreement  
26 or board order.

27           (j) Violating a rule that is adopted by the board pursuant to this  
28 chapter.

29           (k) Failing to report an immunization to the department of health  
30 services as prescribed in section 36-135.

31        Sec. 16. Section 32-1904, Arizona Revised Statutes, is amended to  
32 read:

33           32-1904. Powers and duties of board; immunity

34           A. The board shall:

35           1. Make bylaws and adopt rules that are necessary for the protection  
36 of the public and that pertain to the practice of pharmacy, the  
37 manufacturing, wholesaling or supplying of drugs, devices, poisons or  
38 hazardous substances, the use of pharmacy technicians and support personnel  
39 and the lawful performance of its duties.

40           2. Fix standards and requirements for the registration and  
41 reregistration of pharmacies, except as otherwise specified.

42           3. Investigate compliance as to the quality, label and labeling of all  
43 drugs, devices, poisons or hazardous substances and take action necessary to  
44 prevent the sale of these if they do not conform to the standards prescribed  
45 in this chapter, the official compendium or the federal act.

1           4. Enforce its rules. In so doing, the board or its agents have free  
2 access at all reasonable hours to any pharmacy, manufacturer, wholesaler,  
3 nonprescription drug permittee or other establishment in which drugs,  
4 devices, poisons or hazardous substances are manufactured, processed, packed  
5 or held, or to enter any vehicle being used to transport or hold such drugs,  
6 devices, poisons or hazardous substances for the purpose:

7           (a) Of inspecting the establishment or vehicle to determine if any of  
8 the provisions of this chapter or the federal act are being violated.

9           (b) Of securing samples or specimens of any drug, device, poison or  
10 hazardous substance after paying or offering to pay for such sample.

11           (c) Of detaining or embargoing a drug, device, poison or hazardous  
12 substance in accordance with section 32-1994.

13           5. Examine and license as pharmacists and pharmacy interns all  
14 qualified applicants as provided by this chapter.

15           6. Issue duplicates of lost or destroyed permits on the payment of a  
16 fee as prescribed by the board.

17           7. Adopt rules for the rehabilitation of pharmacists and pharmacy  
18 interns as provided by this chapter.

19           8. At least once every three months notify pharmacies regulated  
20 pursuant to this chapter of any modifications on prescription writing  
21 privileges of podiatrists, dentists, doctors of medicine, registered nurse  
22 practitioners, osteopathic physicians, veterinarians, physician assistants,  
23 optometrists and homeopathic physicians of which it receives notification  
24 from the board of podiatry examiners, board of dental examiners, ~~allopathic~~  
25 ~~board of medical examiners~~ ARIZONA MEDICAL BOARD, board of nursing, board of  
26 osteopathic examiners in medicine and surgery, veterinary medical examining  
27 board, joint board on the regulation of physician assistants, board of  
28 optometry or board of homeopathic medical examiners.

29           B. The board may:

30           1. Employ chemists, compliance officers, clerical help and other  
31 employees and provide laboratory facilities for the proper conduct of its  
32 business.

33           2. Provide, by education of and information to the licensees and to  
34 the public, assistance in the curtailment of abuse in the use of drugs,  
35 devices, poisons and hazardous substances.

36           3. Approve or reject the manner of storage and security of drugs,  
37 devices, poisons and hazardous substances.

38           4. Accept monies and services to assist in the enforcement of the  
39 provisions of this chapter from other than licensees:

40           (a) For performing inspections and other board functions.

41           (b) For the cost of copies of the pharmacy and controlled substances  
42 laws, the annual report of the board, and other information from the board.

43           5. Adopt rules for professional conduct appropriate to the  
44 establishment and maintenance of a high standard of integrity and dignity in  
45 the profession of pharmacy.

1           6. Grant permission to deviate from a state requirement for  
2 experimentation and technological advances.

3           7. Adopt rules for the training and practice of pharmacy interns,  
4 pharmacy technicians and support personnel.

5           8. Investigate alleged violations of this chapter, conduct hearings  
6 in respect to violations, subpoena witnesses and take such action as it deems  
7 necessary to revoke or suspend a license or a permit, place a licensee or  
8 permittee on probation or warn a licensee or permittee under this chapter or  
9 to bring notice of violations to the county attorney of the county in which  
10 a violation took place or to the attorney general.

11          9. By rule approve colleges or schools of pharmacy.

12          10. By rule approve programs of practical experience, clinical  
13 programs, internship training programs, programs of remedial academic work  
14 and preliminary equivalency examinations as provided by this chapter.

15          11. Assist in the continuing education of pharmacists and pharmacy  
16 interns.

17          12. Issue inactive status licenses as provided by this chapter.

18          13. Accept monies and services from the federal government or others  
19 for educational, research or other purposes pertaining to the enforcement of  
20 this chapter.

21          14. By rule except from the application of all or any part of this  
22 chapter any material, compound, mixture or preparation containing any  
23 stimulant or depressant substance included in section 13-3401, paragraph 6,  
24 subdivision (b) or (c) from the definition of dangerous drug if the material,  
25 compound, mixture or preparation contains one or more active medicinal  
26 ingredients not having a stimulant or depressant effect on the central  
27 nervous system, provided that such admixtures are included in such  
28 combinations, quantity, proportion or concentration as to vitiate the  
29 potential for abuse of the substances which THAT do have a stimulant or  
30 depressant effect on the central nervous system.

31          15. Adopt rules for the revocation, suspension or reinstatement of  
32 licenses or permits or the probation of licensees or permittees as provided  
33 by this chapter.

34          C. The executive director and other permanent or temporary personnel  
35 or agents of the board are not subject to civil liability for any act done  
36 or proceeding undertaken or performed in good faith and in furtherance of the  
37 purposes of this chapter.

38          Sec. 17. Section 32-1921, Arizona Revised Statutes, is amended to  
39 read:

40          32-1921. Exempted acts; exemption from registration fees;  
41 definition

42          A. This chapter does not prevent:

43          1. The prescription and dispensing of drugs or prescription  
44 medications by a registered nurse practitioner pursuant to rules adopted by  
45 the board of nursing in consultation with the ~~allopathic board of medical~~

1 examiners ARIZONA MEDICAL BOARD, the board of osteopathic examiners in  
2 medicine and surgery and the board of pharmacy.

3 2. The sale of nonprescription drugs that are sold at retail in  
4 original packages by a person holding a permit under this chapter.

5 3. The sale of drugs at wholesale by a wholesaler or manufacturer that  
6 holds the required permit issued by the board to a person who holds the  
7 required permit issued under this chapter.

8 4. The following health professionals from dispensing or personally  
9 administering drugs or devices to a patient for a condition being treated by  
10 the health professional:

11 (a) A doctor of medicine licensed pursuant to chapter 13 of this  
12 title.

13 (b) An osteopathic physician licensed pursuant to chapter 17 of this  
14 title.

15 (c) A homeopathic physician licensed pursuant to chapter 29 of this  
16 title.

17 (d) A podiatrist licensed pursuant to chapter 7 of this title.

18 (e) A dentist licensed pursuant to chapter 11 of this title.

19 (f) A doctor of naturopathic medicine licensed pursuant to chapter 14  
20 of this title for natural substances and devices.

21 (g) An optometrist who is licensed pursuant to chapter 16 of this  
22 title and who is certified for topical or oral pharmaceutical agents.

23 5. A veterinarian licensed pursuant to chapter 21 of this title from  
24 dispensing or administering drugs to an animal or from dispensing or  
25 administering devices to an animal being treated by the veterinarian.

26 6. The use of any pesticide chemical, soil or plant nutrient or other  
27 agricultural chemical which THAT is a color additive solely because of its  
28 effect in aiding, retarding or otherwise affecting directly or indirectly the  
29 growth or other natural physiological process of produce of the soil and  
30 thereby affecting its color whether before or after harvest.

31 7. A licensed practical or registered nurse employed by a person  
32 licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from  
33 assisting in the delivery of drugs and devices to patients, in accordance  
34 with the provisions of chapter 7, 11, 13, 14, 17 or 29 of this title.

35 8. The use of any mechanical device or vending machine in connection  
36 with the sale of any nonprescription drug, including proprietary and patent  
37 medicine. The board may adopt rules to prescribe conditions under which  
38 nonprescription drugs may be dispensed pursuant to this paragraph. ~~For the~~  
39 ~~purposes of this paragraph, "nonprescription drug" has the same meaning~~  
40 ~~prescribed in section 32-1901.~~

41 B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or  
42 29 of this title and who employs a licensed practical or registered nurse who  
43 in the course of employment assists in the delivery of drugs and devices is  
44 responsible for the dispensing process.

1 C. Pursuant to a prescription order written by a physician for the  
2 physician's patients and dispensed by a licensed pharmacist, a physical  
3 therapist licensed pursuant to chapter 19 of this title may procure, store  
4 and administer nonscheduled legend and topical anti-inflammatories and  
5 topical anesthetics for use in phonophoresis and iontophoresis procedures and  
6 within the scope of practice of physical therapy.

7 D. A public health facility operated by this state or a county and a  
8 qualifying community health center may dispense medication or devices to  
9 patients at no cost without providing a written prescription if the public  
10 health facility or the qualifying community health center meets all storage,  
11 labeling, safety and record keeping rules adopted by the board of pharmacy.

12 E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or  
13 29 of this title, who is practicing at a public health facility or a  
14 qualifying community health center and who is involved in the dispensing of  
15 medication or devices only at a facility or center, whether for a charge or  
16 at no cost, shall register to dispense with the appropriate licensing board  
17 but is exempt from paying registration fees.

18 F. For the purposes of this section, "qualifying community health  
19 center" means a primary care clinic that is recognized as nonprofit under  
20 section 501(c)(3) of the United States internal revenue code and whose board  
21 of directors includes patients of the center and residents of the center's  
22 service area.

23 Sec. 18. Section 32-1970, Arizona Revised Statutes, is amended to  
24 read:

25 32-1970. Implementing, monitoring and modifying drug therapy  
26 and use; conditions; definitions

27 A. A pharmacist licensed pursuant to this chapter may implement,  
28 monitor and modify drug therapy and use only under the following  
29 circumstances:

30 1. The patient's drug therapy and use are pursuant to a diagnosis by  
31 a physician licensed pursuant to chapter 13 or 17 of this title in an  
32 inpatient setting except for health care provided pursuant to paragraph 4,  
33 subdivisions (b) and (d) of this subsection.

34 2. The pharmacist complies with rules adopted by the state board of  
35 pharmacy that have been approved by the ~~allopathic~~ ARIZONA MEDICAL board of  
36 ~~medical~~ examiners and the board of osteopathic examiners in medicine and  
37 surgery.

38 3. The pharmacist follows the written drug therapy management  
39 protocols prescribed by the physician who made the diagnosis.

40 4. The pharmacist implements, monitors or modifies a person's drug  
41 therapy and use only in the following health care institutions:

42 (a) A hospital as defined in section 32-1901.

43 (b) A staff model of a health care services organization.

1 (c) A nursing care institution that has a contractual relationship  
2 between a limited service pharmacy or a long-term care consultant pharmacist  
3 or has an on-site pharmacy.

4 (d) A qualifying community health center as defined in section 32-1921  
5 that has an on-site pharmacy.

6 5. The pharmacist includes the approved guidelines and protocols in  
7 the patient's chart or file and makes the chart or file available for review  
8 by the patient's other health care providers.

9 B. A licensee who violates this section commits an act of  
10 unprofessional conduct.

11 C. A pharmacist is responsible for the pharmacist's negligent acts  
12 that are the result of the pharmacist's change of medication or that relate  
13 to patient drug usage pursuant to drug therapy management protocols. This  
14 subsection does not limit a physician's liability for negligent acts that are  
15 not related to a pharmacist's change of medication pursuant to the protocols.

16 D. For the purposes of this section:

17 1. "Implement, monitor and modify" means that a pharmacist may perform  
18 specific acts as authorized by a physician pursuant to written guidelines and  
19 protocols. This does not include the selection of drug products not  
20 prescribed by the physician unless selection of the specific drug product is  
21 authorized by the written guidelines and protocols.

22 ~~2. "Limited service pharmacy" has the same meaning prescribed in~~  
23 ~~section 32-1901.~~

24 ~~3. 2. "Long-term care consultant pharmacist" means a pharmacist~~  
25 ~~providing consulting services to a long-term care facility.~~

26 ~~4. 3. "Protocol" means a physician's written order, written standing~~  
27 ~~medical order or other written order of protocol as defined by rules adopted~~  
28 ~~by the Arizona MEDICAL board of medical examiners and the Arizona board of~~  
29 ~~osteopathic examiners in medicine and surgery and that are patient, physician~~  
30 ~~and pharmacist specific for prescriptions or orders given by the physician~~  
31 ~~authorizing the written protocol.~~

32 ~~5. 4. "Staff model of a health care services organization" means an~~  
33 ~~organization that is licensed pursuant to title 20 and that employs its~~  
34 ~~health care providers.~~

35 Sec. 19. Section 32-2502, Arizona Revised Statutes, is amended to  
36 read:

37 32-2502. Joint board on the regulation of physician assistants;  
38 membership; appointment; terms

39 A. The joint board on the regulation of physician assistants is  
40 established consisting of the following members:

41 1. Four physician assistants who hold a current regular license  
42 pursuant to this chapter. The governor may appoint these members from a list  
43 of qualified candidates submitted by the Arizona state association of  
44 physician assistants. The governor may seek additional input and nominations  
45 before the governor makes the physician assistant appointments.

1           2. Two public members appointed by the governor.

2           3. Two physicians who are actively engaged in the practice of medicine  
3 and who are licensed pursuant to chapter 17 of this title, one of whom  
4 supervises a physician assistant at the time of appointment, who are  
5 appointed by the board of osteopathic examiners in medicine and surgery and  
6 who shall report and be responsible to the board of osteopathic examiners in  
7 medicine and surgery.

8           4. Two physicians who are actively engaged in the practice of medicine  
9 and who are licensed pursuant to chapter 13 of this title, one of whom  
10 supervises a physician assistant at the time of his appointment, who are  
11 appointed by the ~~allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD  
12 and who shall report and be responsible to the ~~allopathic~~ THAT board of  
13 ~~medical examiners~~.

14           B. The term of office of members of the board is four years to begin  
15 and end on July 1.

16           C. Each board member is eligible for appointment to not more than two  
17 full terms. Each board member may continue to hold office until the  
18 appointment and qualification of that member's successor. However, the  
19 entity that appoints a board member may remove that member, after notice and  
20 a hearing before that entity, on a finding of continued neglect of duty,  
21 incompetence or unprofessional or dishonorable conduct. That member's term  
22 ends when the entity makes this finding.

23           D. A board member's term automatically ends:

24           1. On written resignation submitted to the board chairperson or to an  
25 appointing entity.

26           2. If the member is absent from this state for more than six months  
27 during a one year period.

28           3. If the member fails to attend three consecutive regular board  
29 meetings.

30           4. If the member retires from the active practice of medicine or from  
31 the active performance of health care tasks.

32           E. Board members are immune from civil liability for all good faith  
33 actions they take pursuant to this chapter.

34           Sec. 20. Section 32-2505, Arizona Revised Statutes, is amended to  
35 read:

36           32-2505. Personnel; consultants; compensation

37           A. The executive director employed by the ARIZONA MEDICAL board of  
38 ~~medical examiners shall be~~ IS the executive director of the board. The staff  
39 of the ARIZONA MEDICAL board of ~~medical examiners~~ shall carry out the  
40 administrative responsibilities of the board.

41           B. The board may employ special medical consultants or other agents  
42 to make investigations, gather information and perform other duties the board  
43 deems necessary or appropriate for the effective enforcement or  
44 administration of this chapter. Compensation for special consultants or

1 agents employed pursuant to this subsection shall not exceed one hundred  
2 dollars per day.

3 Sec. 21. Section 32-2506, Arizona Revised Statutes, is amended to  
4 read:

5 32-2506. Arizona medical board fund

6 A. Pursuant to sections 35-146 and 35-147, the board shall deposit ten  
7 per cent of all monies collected pursuant to this chapter in the state  
8 general fund and deposit the remaining ninety per cent in the ARIZONA MEDICAL  
9 board of ~~medical examiners'~~ fund.

10 B. Monies deposited in the ~~board of medical examiners'~~ fund pursuant  
11 to this section are subject to section 35-143.01.

12 Sec. 22. Section 32-2526, Arizona Revised Statutes, is amended to  
13 read:

14 32-2526. Fees

15 A. By a vote at its annual fall meeting, the board shall establish  
16 nonrefundable fees and penalties that do not exceed the following:

- 17 1. Application for a regular license, one hundred twenty-five dollars.
- 18 2. Application for a temporary license, fifty dollars.
- 19 3. Conversion from a temporary license to a regular license,  
20 seventy-five dollars.

21 4. Annual renewal of a regular license, a fee of not to exceed one  
22 hundred dollars.

23 5. Penalty fee for late renewal of a regular license, one hundred  
24 dollars.

25 6. Issuance of a duplicate license, twenty-five dollars.

26 7. Approval of notification of supervision by a supervising physician,  
27 one hundred twenty-five dollars.

28 8. Application to transfer the responsibility of the supervising  
29 physician to an approved supervising physician's agent, fifty dollars.

30 9. For services not required to be provided by this chapter, but which  
31 the board deems appropriate to carry out the intent and purpose of this  
32 chapter, a fee of not to exceed the actual cost of providing the  
33 services. Notwithstanding section 32-2506, the board shall deposit, pursuant  
34 to sections 35-146 and 35-147, all of the monies collected under this  
35 paragraph in the ARIZONA MEDICAL board of ~~medical examiners'~~ fund established  
36 by section 32-1406.

37 B. Notwithstanding subsection A of this section, on written request  
38 the board may return the license renewal fee, for good cause shown.

39 Sec. 23. Section 32-2527, Arizona Revised Statutes, is amended to  
40 read:

41 32-2527. Change of address; penalty

42 A. A person holding an active license as a physician assistant in this  
43 state shall inform the board in writing within thirty days of that person's  
44 current residence address, office address and telephone number and of each  
45 change in residence and office address or telephone number that occurs. A

1 residential address is not available to the public unless it is the only  
2 address of record.

3 B. The board may assess its costs incurred in locating a physician  
4 assistant who fails to comply with subsection A of this section within thirty  
5 days after the date of change. The board may also assess a penalty of not  
6 to exceed one hundred dollars against the physician assistant.  
7 Notwithstanding section 32-2506, monies collected pursuant to this subsection  
8 shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the ARIZONA  
9 MEDICAL board of ~~medical examiners~~ fund established by section 32-1406.

10 Sec. 24. Section 32-2842, Arizona Revised Statutes, is amended to  
11 read:

12 32-2842. Mammographic images; physicians; requirements

13 A. A physician licensed under chapter 13 or 17 of this title who reads  
14 or interprets mammographic images after January 1, 1994 shall meet the  
15 following requirements:

16 1. Have completed forty hours of medical education credits in  
17 mammography.

18 2. Is either certified by the American board of radiology in  
19 diagnostic radiology or the American osteopathic board of radiology in  
20 diagnostic radiology, as applicable, or is approved by the ~~board of medical~~  
21 ~~examiners~~ ARIZONA MEDICAL BOARD or the Arizona board of osteopathic examiners  
22 in medicine and surgery, as applicable, as qualified to read and interpret  
23 mammographic images.

24 3. Has done either of the following:

25 (a) If the requirements are met by January 1, 1994, in the two year  
26 period before January 1, 1994, have interpreted or reviewed an average of  
27 three hundred mammograms a year or if the requirements are met after January  
28 1, 1994, have interpreted or reviewed an average of three hundred mammograms  
29 in the two years immediately preceding qualification under the supervision  
30 of a physician qualified to read or interpret mammograms.

31 (b) Completed a radiology residency within the three years immediately  
32 preceding qualification.

33 B. A physician who meets the requirements of subsection A shall  
34 satisfy the continuing medical education requirements as follows:

35 1. The physician shall complete fifteen hours of continuing medical  
36 education credits in mammography every three years.

37 2. The physician shall interpret or review an average of three hundred  
38 mammograms a year over each two-year period.

39 C. The ~~allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD and  
40 the Arizona board of osteopathic examiners in medicine and surgery shall  
41 establish minimum criteria to authorize doctors licensed under the respective  
42 board BOARD'S to read or interpret mammographic images. The requirements  
43 shall be in lieu of certification by either the American board of radiology  
44 in diagnostic radiology or the American osteopathic board of radiology in  
45 diagnostic radiology. Nothing in the criteria established by the respective

boards ~~shall relieve~~ RELIEVES a physician from the requirements of subsection A, paragraphs 1 and 3 or subsection B. The respective boards shall require and maintain documentation showing that the physician has completed the educational and experience requirements.

D. A physician who reads or interprets mammograms shall maintain records to establish compliance with subsection B, paragraph 2 and shall maintain records of outcome data that correlate positive mammograms to biopsies.

Sec. 25. Section 32-2933, Arizona Revised Statutes, is amended to read:

32-2933. Definition of unprofessional conduct

"Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. Performing an invasive surgical procedure not specifically permitted by this chapter or by board rules or pursuant to a license issued under chapter 13 or 17 of this title.

2. Wilful betrayal of a professional secret or wilful violation of a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from the full and free exchange of information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with the Arizona homeopathic medical association or any of its component organizations or with the homeopathic medical organizations of other states, counties, districts or territories or with those of foreign countries.

3. Commission of a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is deemed conclusive evidence of guilt.

4. Habitual intemperance in the use of alcohol or habitual substance abuse.

5. Violating federal, state, county or municipal laws or regulations applicable to the practice of medicine or relating to public health.

6. Prescribing a controlled substance for other than accepted therapeutic purposes.

7. Conduct that the board determines is gross professional negligence, repeated professional negligence or any negligence that causes the death of a patient.

8. Impersonating another physician.

9. Acting or assuming to act as a member of the board if this is not true.

10. Procuring or attempting to procure a license to practice homeopathic medicine by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another.

1        11. Having professional connection with or lending one's name to an  
2 illegal practitioner of homeopathic medicine or of any of the other healing  
3 arts.

4        12. Representing that a manifestly incurable disease, injury, ailment  
5 or infirmity can be permanently cured or that a curable disease, injury,  
6 ailment or infirmity can be cured within a stated time if this is not true.

7        13. Offering, undertaking or agreeing to cure or treat a disease,  
8 injury, ailment or infirmity by a secret means, method, device or  
9 instrumentality.

10       14. Refusing to divulge to the board upon ON demand the means, method,  
11 device or instrumentality used in the treatment of a disease, injury, ailment  
12 or infirmity.

13       15. Giving or receiving or aiding or abetting the giving or receiving  
14 of rebates, either directly or indirectly.

15       16. Knowingly making any false or fraudulent statement, written or  
16 oral, in connection with the practice of homeopathic medicine except as the  
17 same may be necessary for accepted therapeutic purposes.

18       17. Immorality or misconduct that tends to discredit the profession.

19       18. Being disciplined by another regulatory jurisdiction because of the  
20 licensee's mental or physical inability to engage safely in the practice of  
21 medicine, medical incompetence or unprofessional conduct as defined by that  
22 jurisdiction and that corresponds directly or indirectly with an act of  
23 unprofessional conduct prescribed by this section. The disciplinary action  
24 may include refusing, denying, revoking or suspending a license, ISSUING a  
25 formal reprimand, issuing a decree of censure or otherwise limiting,  
26 restricting or monitoring the licensee or placing the licensee on probation.  
27       19. Any conduct or practice contrary to recognized standards of ethics  
28 of the homeopathic medical profession, any conduct or practice which THAT  
29 does or might constitute a danger to the health, welfare or safety of the  
30 patient or the public, or any conduct, practice or condition which THAT does  
31 or might impair the ability to practice homeopathic medicine safely and  
32 skillfully.

33       20. Failing or refusing to maintain adequate records on a patient or  
34 to make patient records promptly available to another physician on request  
35 and receipt of proper authorization.

36       21. Advertising in a false, deceptive or misleading manner.

37       22. Violating or attempting to violate, directly or indirectly, or  
38 assisting in or abetting the violation of or conspiring to violate this  
39 chapter or any board rule.

40       23. Using a controlled substance unless it is prescribed by another  
41 physician for use during a prescribed course of treatment.

42       24. Prescribing, dispensing or administering anabolic androgenic  
43 steroids for other than therapeutic purposes.

44       25. Prescribing or dispensing controlled substances to members of the  
45 homeopathic physician's immediate family.

1       26. Prescribing, dispensing or administering schedule II controlled  
2 substances as defined in section 36-2513 including amphetamines and similar  
3 schedule II sympathomimetic drugs in the treatment of exogenous obesity for  
4 a period in excess of thirty days in any one year, or the nontherapeutic use  
5 of injectable amphetamines.

6       27. The use of experimental forms of diagnosis and treatment without  
7 adequate informed patient consent, without a board approved written  
8 disclosure that the form of diagnosis and treatment to be used is  
9 experimental and without conforming to generally accepted experimental  
10 criteria, including protocols, detailed records, periodic analysis of results  
11 and periodic review by a peer review committee.

12       28. Sexual intimacies with a patient.

13       29. Use of the designation "M.D." or "D.O." in a way that would lead  
14 the public to believe that a person is licensed by the ~~allopathic board of~~  
15 ~~medical examiners~~ ARIZONA MEDICAL BOARD or the board of osteopathic examiners  
16 in medicine and surgery in this state if this is not the case.

17       30. Falsely or fraudulently representing or holding oneself out as  
18 being a homeopathic medical specialist.

19       31. Failing to dispense drugs and devices in compliance with article  
20 4 of this chapter.

21       32. Violating a formal board order, terms of probation or a stipulation  
22 issued or entered into by the board or its designee under this chapter.

23       33. Charging a fee for services not rendered or charging and collecting  
24 a clearly unreasonable fee. In determining the reasonableness of the fee,  
25 the board shall consider the fee customarily charged in this state for  
26 similar services in relation to modifying factors such as the time required,  
27 the complexity of the service and the skill required to perform the service  
28 properly. This paragraph does not apply if there is a clearly written  
29 contract for a fixed fee between the physician and the patient that is  
30 entered into before the physician provides the service.

31       34. Failing to appropriately direct, collaborate with or supervise a  
32 licensed, certified or registered health care provider, a homeopathic medical  
33 assistant or office personnel employed or assigned to the physician to assist  
34 in the medical care of patients.

35       35. Knowingly making a false or misleading statement on a form required  
36 by the board or in written correspondence with the board.

37       36. Failing to furnish legally requested information in a timely manner  
38 to the board or its investigators or representatives.

39       37. Failing to allow properly authorized board personnel to examine or  
40 have access to a licensee's documents, reports or records that relate to the  
41 licensee's medical practice or medically related activities.

42       38. Signing a blank, undated or predated prescription form.

43       39. Refusing to submit to a body fluid examination required under  
44 section 32-2941 or pursuant to a board investigation into the licensee's  
45 substance abuse.

1       Sec. 26. Section 36-117, Arizona Revised Statutes, is amended to read:

2       36-117. Services for licensing agencies; costs

3       A. The department, at the discretion of the director, may contract to  
4 provide personal and other administrative services and facilities to the  
5 following health licensing agencies:

6       1. State dental board.

7       2. ARIZONA MEDICAL board of ~~medical~~ examiners.

8       3. State board of nursing.

9       4. State board of optometry.

10      5. Arizona board of osteopathic examiners in medicine and surgery.

11      6. State board of podiatry examiners.

12      7. Arizona state board of pharmacy.

13      8. Board of examiners of nursing care institution administrators.

14      B. The professional health licensing agency shall reimburse the  
15 department for the actual costs of services or the reasonable value of  
16 facilities provided to such THAT agency.

17      Sec. 27. Section 36-441, Arizona Revised Statutes, is amended to read:

18      36-441. Health care utilization committees; immunity;

19               exception; definition

20      A. A person who without malice makes a decision or recommendation as  
21 a member, agent or employee of a health care utilization committee or who  
22 furnishes any records, information or assistance to such THAT committee upon  
23 AT its request is not subject to liability for civil damages or any legal  
24 action in consequence thereof OF THAT ACTION. In any such action, the  
25 absence of malice shall be IS presumed. This presumption may be overcome  
26 only by a showing of clear and convincing evidence. ~~Nothing in~~ This section  
27 ~~relieves any~~ DOES NOT RELIEVE A person of liability arising from treatment  
28 of a patient. FOR THE PURPOSES OF THIS SUBSECTION, "malice" shall mean MEANS  
29 evil intent and outrageous, oppressive or intolerable conduct that creates  
30 a substantial risk of tremendous harm to others.

31      B. All proceedings, records and materials prepared in connection with  
32 the activities of a health care utilization committee are confidential and  
33 are not subject to discovery except:

34      1. In proceedings before the ARIZONA MEDICAL board of ~~medical~~  
35 examiners or the board of osteopathic examiners.

36      2. In actions by an individual health care provider against the health  
37 care institution or outpatient surgical center arising from the discipline  
38 or other adverse action taken against the individual as a result of  
39 utilization review.

40      C. No member of a utilization review committee, a person engaged in  
41 assisting the committee or a person furnishing information to the committee  
42 may be subpoenaed to testify in a judicial or quasi-judicial proceeding if  
43 the subpoena is based solely on the utilization review committee's  
44 activities.

45      D. This section does not:

1 1. Affect a patient's claim to privilege or privacy.  
2 2. Prevent the subpoena of a patient's medical records if they are  
3 otherwise subject to discovery.

4 3. Restrict the powers and duties of the director of the department  
5 of health services pursuant to this chapter with respect to records and  
6 information which THAT are not subject to this section.

7 E. In a legal action brought against a hospital or outpatient surgical  
8 center for failure to adequately perform utilization review, representatives  
9 of the facility may testify as to whether there was utilization review with  
10 respect to the subject matter of the litigation.

11 F. All proceedings, records and materials prepared in connection with  
12 utilization review are confidential and inadmissible as evidence in a court  
13 proceeding.

14 G. For the purposes of this section, "health care utilization  
15 committee" means a committee established by a hospital or an outpatient  
16 surgical center to review or evaluate the utilization, appropriateness and  
17 necessity of health care services provided by that facility.

18 Sec. 28. Section 36-445.01, Arizona Revised Statutes, is amended to  
19 read:

20 36-445.01. Confidentiality of information; conditions of  
21 disclosure

22 A. All proceedings, records and materials prepared in connection with  
23 the reviews provided for in section 36-445, including all peer reviews of  
24 individual health care providers practicing in and applying to practice in  
25 hospitals or outpatient surgical centers and the records of such reviews,  
26 shall be ARE confidential and shall ARE not be subject to discovery except  
27 in proceedings before the ARIZONA MEDICAL board of medical examiners, or the  
28 board of osteopathic examiners, or in actions by an individual health care  
29 provider against a hospital or center or its medical staff arising from  
30 discipline of such individual health care provider or refusal, termination,  
31 suspension or limitation of his THE HEALTH CARE PROVIDER'S privileges. No  
32 member of a committee established under the provisions of section 36-445 or  
33 officer or other member of a hospital's or center's medical, administrative  
34 or nursing staff engaged in assisting the hospital or center to carry out  
35 functions in accordance with that section or any person furnishing  
36 information to a committee performing peer review may be subpoenaed to  
37 testify in any judicial or quasi-judicial proceeding if such THE subpoena is  
38 based solely on such THOSE activities.

39 B. This article shall DOES not be construed to affect any patient's  
40 claim to privilege or privacy or to prevent the subpoena of a patient's  
41 medical records if they are otherwise subject to discovery or to restrict the  
42 powers and duties of the director pursuant to this chapter, with respect to  
43 records and information which THAT are not subject to this article. In any  
44 legal action brought against a hospital or outpatient surgical center  
45 licensed pursuant to this chapter claiming negligence for failure to

1 adequately do peer review, representatives of the hospital or center are  
2 permitted to testify as to whether there was peer review as to the subject  
3 matter being litigated. The contents and records of the peer review  
4 proceedings are fully confidential and inadmissible as evidence in any court  
5 of law.

6 Sec. 29. Section 41-1092, Arizona Revised Statutes, is amended to  
7 read:

8 41-1092. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Administrative law judge" means an individual or an agency head,  
11 board or commission that sits as an administrative law judge, that conducts  
12 administrative hearings in a contested case or an appealable agency action  
13 and that makes decisions regarding the contested case or appealable agency  
14 action.

15 2. "Administrative law judge decision" means the findings of fact,  
16 conclusions of law and recommendations or decisions issued by an  
17 administrative law judge.

18 3. "Appealable agency action" means an action that determines the  
19 legal rights, duties or privileges of a party and that is not preceded by an  
20 opportunity for an administrative hearing. Appealable agency actions do not  
21 include interim orders by self-supporting regulatory boards or rules, orders,  
22 standards or statements of policy of general application issued by an  
23 administrative agency to implement, interpret or make specific the  
24 legislation enforced or administered by it, nor does it mean or include rules  
25 concerning the internal management of the agency that do not affect private  
26 rights or interests. For the purposes of this paragraph "administrative  
27 hearing" does not include a public hearing held for the purpose of receiving  
28 public comment on a proposed agency action.

29 4. "Director" means the director of the office of administrative  
30 hearings.

31 5. "Final administrative decision" means a decision by an agency that  
32 is subject to judicial review pursuant to title 12, chapter 7, article 6.

33 6. "Office" means the office of administrative hearings.

34 7. "Self-supporting regulatory board" means any one of the following:

35 (a) The state board of accountancy.

36 (b) The state board of appraisal.

37 (c) The board of barbers.

38 (d) The board of behavioral health examiners.

39 (e) The Arizona state boxing commission.

40 (f) The state board of chiropractic examiners.

41 (g) The board of cosmetology.

42 (h) The state board of dental examiners.

43 (i) The state board of funeral directors and embalmers.

44 (j) The Arizona game and fish commission.

45 (k) The board of homeopathic medical examiners.

1       (l) ~~The allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD.  
2       (m) The naturopathic physicians board of medical examiners.  
3       (n) The state board of nursing.  
4       (o) The board of examiners of nursing care institution administrators  
5 and adult care home managers.  
6       (p) The board of occupational therapy examiners.  
7       (q) The state board of dispensing opticians.  
8       (r) The state board of optometry.  
9       (s) The Arizona board of osteopathic examiners in medicine and  
10 surgery.  
11       (t) The Arizona peace officer standards and training board.  
12       (u) The Arizona state board of pharmacy.  
13       (v) The board of physical therapy examiners.  
14       (w) The state board of podiatry examiners.  
15       (x) The state board for private postsecondary education.  
16       (y) The state board of psychologist examiners.  
17       (z) The board of respiratory care examiners.  
18       (aa) The structural pest control commission.  
19       (bb) The state board of technical registration.  
20       (cc) The Arizona state veterinary medical examining board.  
21       (dd) The acupuncture board of examiners.  
22       (ee) THE BOARD OF ATHLETIC TRAINING.  
23       Sec. 30. Section 41-3002.21, Arizona Revised Statutes, is amended to  
24 read:  
25       41-3002.21. Arizona medical board; termination July 1, 2002  
26       A. ~~The allopathic board of medical examiners~~ ARIZONA MEDICAL BOARD  
27 terminates on July 1, 2002.  
28       B. Title 32, chapter 13 is repealed on January 1, 2003.

APPROVED BY THE GOVERNOR MAY 21, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2002.

Passed the House April 3, 2002,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate May 7, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature]  
President of the Senate

Charmion Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

       day of       , 20  ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20  ,

at        o'clock        M.

        
Governor of Arizona

H.B. 2010

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this        day of       , 20  ,

at        o'clock        M.

        
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 16, 2002,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002,

at 3:00 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 21st day of

May, 2002,

at 12:55 o'clock P M.

[Signature]  
Governor of Arizona

H.B. 2010

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 2002,

at 12:13 o'clock P M.

[Signature]  
Secretary of State